



**Senate Bill No. 272**

**Public Act No. 10-124**

**AN ACT CONCERNING DRUNK BOATING AND CERTAIN  
VESSELS REGISTERED WITH MARINE DEALER REGISTRATION  
NUMBERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 15-140q of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) If the person arrested refuses to submit to such test or analysis, or submits to such test or analysis [commenced within two hours of the time of operation,] and the results of such test or analysis indicate that at the time of the alleged offense such person had an elevated blood alcohol content, the peace officer shall immediately revoke the safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation, if any, of such person for a twenty-four-hour period. The peace officer shall prepare a written report of the incident and shall mail the report together with any certificate taken into possession and a copy of the results of any chemical test or analysis, to the commissioner within three business days. The report shall be made on a form approved by the commissioner and shall be subscribed and sworn to under penalty of false statement as provided in section 53a-

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157b by the peace officer before whom such refusal was made or who administered or caused to be administered such test or analysis. If the person arrested refused to submit to such test or analysis, the report shall be endorsed by a third person who witnessed such refusal. The report shall set forth the grounds for the officer's belief that there was probable cause to arrest such person for operating such vessel while under the influence of intoxicating liquor or any drug, or both, or while such person has an elevated blood alcohol content and shall state that such person refused to submit to such test or analysis when requested by such peace officer or that such person submitted to such test or analysis [ , commenced within two hours of the time of operation,] and the results of such test or analysis indicated that such person at the time of the alleged offense had an elevated blood alcohol content.

Sec. 2. Subsection (g) of section 15-140q of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(g) If such person contacts the department to schedule a hearing, the commissioner shall assign a date, time and place for the hearing, which date shall be prior to the effective date of the suspension. At the request of such person and upon a showing of good cause, the commissioner may grant one continuance for a period not to exceed thirty days. The hearing shall be limited to a determination of the following issues: (1) Whether the peace officer had probable cause to arrest the person for operating the vessel while under the influence of intoxicating liquor or drugs, or both, or while such person has an elevated blood alcohol content; (2) whether such person was placed under arrest; (3) whether such person (A) refused to submit to such test or analysis, or (B) submitted to such test or analysis [ , commenced within two hours of the time of operation,] and the results of such test or analysis indicated that at the time of the alleged offense that such

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person had an elevated blood alcohol content; and (4) whether such person was operating the vessel. At the hearing, the results of the test or analysis shall be sufficient to indicate the ratio of alcohol in the blood of such person at the time of operation, except that if the results of an additional test, administered pursuant to section 15-140r, as amended by this act, indicate that the ratio of alcohol in the blood of such person is eight-hundredths of one per cent or less of alcohol, by weight, and is higher than the results of the first test, evidence shall be presented that demonstrates that the test results and analysis thereof accurately indicate the blood alcohol content at the time of operation. The fees of any witness summoned to appear at the hearing shall be the same as provided in section 52-260.

Sec. 3. Subsection (a) of section 15-140r of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Except as provided in subsection (d) of this section, in any criminal prosecution for the violation of section 15-132a, subsection (d) of section 15-133, section 15-140l or 15-140n or subsection (b) of section 53-206d, evidence respecting the amount of alcohol or drug in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's breath, blood or urine shall be admissible and competent provided: (1) The defendant was afforded a reasonable opportunity to telephone an attorney prior to the performance of the test and consented to the taking of the test upon which such analysis is made; (2) a true copy of the report of the test result was mailed to or personally delivered to the defendant within twenty-four hours or by the end of the next regular business day, after such result was known, whichever is later; (3) the test was performed by or at the direction of a certified law enforcement officer according to methods and with equipment approved by the Department of Public Safety, and if a blood test was performed, it was performed on a blood

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sample taken by a person licensed to practice medicine and surgery in this state, a qualified laboratory technician, an emergency medical technician II or a registered nurse in accordance with the regulations adopted under subsection (b) of this section; (4) the device used for such test was checked for accuracy in accordance with the regulations adopted under subsection (b) of this section; (5) an additional chemical test of the same type was performed at least thirty minutes after the initial test was performed or, if requested by the peace officer for reasonable cause, an additional chemical test of a different type was performed to detect the presence of a drug or drugs other than or in addition to alcohol, except that the results of the initial test shall not be inadmissible under this subsection if reasonable efforts were made to have such additional test performed in accordance with the conditions set forth in this subsection and such additional test was not performed or was not performed within a reasonable time, or the results of such additional test are not admissible for failure to meet a condition set forth in this subsection; and (6) evidence is presented that the test was commenced within two hours of operation of the vessel or expert testimony establishes the reliability of a test commenced beyond two hours of operation of the vessel. In any prosecution under this section it shall be a rebuttable presumption that the results of such chemical analysis establish the ratio of alcohol in the blood of the defendant at the time of the alleged offense, except that if the results of the additional test indicate that the ratio of alcohol in the blood of such defendant is ten-hundredths of one per cent or less of alcohol, by weight, and is higher than the results of the first test, evidence shall be presented that demonstrates that the test results and the analysis thereof accurately indicate the blood alcohol content at the time of the alleged offense.

Sec. 4. (*Effective from passage*) (a) Notwithstanding the provisions of chapter 268 of the general statutes, for two years from the effective date of this section, any person who holds a current passenger-for-hire

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license issued by the United States Coast Guard and a current charter boat registration issued by the Commissioner of Environmental Protection pursuant to section 26-142a of the general statutes shall not be prohibited from operating a vessel registered with a marine dealer's registration number issued pursuant to section 15-145 of the general statutes, provided any such person has operated a recreational charter fishing guide service using a vessel registered with such a marine dealer's registration number in connection with such guide service for not less than five of the ten years preceding the effective date of this section.

(b) The Commissioner of Environmental Protection shall not revoke a marine dealer's registration number issued pursuant to section 15-145 of the general statutes for any vessel used in compliance with subsection (a) of this section.